IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 29606 of 2007(Y)

PETITIONER:

BABY RAPHEL PUTHUKADAN,
JOLLY VIHAR, KORATTY P.O., THRISSUR DISTRICT,
REPRESENTED BY THROUGH POWER OF ATTORNEY HOLDER
EBBY GEORGE, RESIDING AT CHIRAYATH HOUSE,
POTTA (PO), CHALAKKUDY, THRISSUR.

BY ADV. SRI.P.A.AUGUSTIAN
SRI.ALEXANDER J.KARUVELITHARA

RESPONDENTS:

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1. THE COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WILLINGDON ISLAND, KOCHI-682 009.

2. THE COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, 60, RAJAJI SALAI, CHENNAI-1.

3. M/S. CEONEMAR LOGISTICS PVT. LTD.,
XXIV, DORRAGH SMALL HOUSE, 5TH CROSS ROAD,
W/ISLAND, COCHIN-3.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
SRI.JOMMY THARIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF INVOICE DT.3.7.2007.

P2: TRUE COPY OF B/L DT.13.6.2007.

P3: TRUEC OPY OF LETTER DT.27.7.2007.

P4: .DO.

P5: .DO. DT.1.8.2007.

P6: .DO. DT.7.8.2007.

P7: TRUE COPY OF LATEST COMMUNICATION DT.10.9.2007.

P8: TRUE COPY OF LETTER DT.12.9.2007.

TRUE COPY

PA TO JUDGE

ANTONY DOMINIC, J.

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W.P.(C) No.29606 of 2007

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Dated this the 6th day of November, 2007.

JUDGMENT

The petitioner submits that a car intended to be discharged at Cochin Port has been erroneously discharged by the Shipping Company at Chennai and that presently the vehicle is in the custody of the second respondent, the Chennai Customs. Petitioner wants the vehicle to be transshipped to Cochin by recourse to the provision under Section 64 of the Customs Act. According to learned counsel for the petitioner though the petitioner is entitled for such transshipment, the Chennai Customs are declining demanding an NOC from their counterparts at Cochin. On instruction learned counsel for the Department submits that it is not for the Cochin Customs authority to issue NOC and that there is no such procedure. He also points out that if the petitioner complies with the requirement of Section 64 and makes an application in that regard to the Chennai Customs, that will be processed and orders passed.

2. In view of the fact that the car has been discharged in the Chennai Port, coming within the jurisdiction of the second respondent, the petitioner ought to have moved the second respondent for transshipment of the car.

There is nothing on record to indicate that any such application has been moved except a reference in Ext.P4. In view of the positive assertion of the second respondent that no application has been made by the petitioner, the only order that I can pass in this case is that it will be open to the petitioner to make an application as contemplated under Section 64 of the Customs Act, in which event, the second respondent shall deal with the same and pass orders thereon.

W.P. is disposed of as above.

ANTONY DOMINIC
Judge

pms